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In the Supreme Court of the United States

OCTOBER TERM, 1965

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No. [redacted] 190

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LOWELL MICHAEL COIL,
Petitioner,

vs.

UNITED STATES OF AMERICA,
Respondent.

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PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE EIGHTH CIRCUIT

o——o——o

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Law Briefs—OMAHA LINO-SLUG PRINTING CO., 418 So. 15th St.

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Petitioner prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Eighth Circuit, entered in the above entitled case of April 5, 1965.

CITATIONS TO OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eighth Circuit, entered on April 5, 1965, is printed in Appendix "A" hereto, infra pp. 9-24, and is reported in —— Fed. 2d ——.

JURISDICTION

The judgment of the Circuit Court of Appeals for the Eighth Circuit was entered on April 5, 1965, and is printed in Appendix "B", page 22 infra. The jurisdiction of this Court is invoked under 28 U. S. C., Sec. 1254(1). Rule 22(2).

QUESTIONS PRESENTED

Whether petitioner was denied his right to a fair trial under the Sixth and Fourteenth Amendments to the Constitution of the United States when the trial Court allowed the Government's chief witness to testify as to a purchase of narcotics from the petitioner, and then permitted the witness to claim the Fifth Amendment privilege on cross-examination when asked about other narcotic transactions.

Whether the petitioner was denied his right to a fair trial under the Sixth and Fourteenth Amendments to the Constitution of the United States when the trial Court refused to grant a mistrial or a continuance of his case when the Government's chief witness was permitted to testify as to the purchase of narcotics from the petitioner, and then was permitted to take the Fifth Amendment when questioned on cross-examination about the possession of narcotics because of a pending State charge against him.

Was the petitioner denied a fair trial when the Court prevented the petitioner from presenting the theory of his defense to the jury?

Were the verdicts returned inconsistent with the evidence presented?

STATEMENT

Petitioner was convicted on the first Count of a five-Count indictment, charging that he did knowingly and wilfully conceal and cover up by trick, scheme and device, a material fact, in that petitioner maintained a prescription file in which were prescriptions showing "the dispensing of 450 hypodermic tablets morphine sulfate half-grain to one Dorothy Williams, between June 13, 1963, and September 26, 1963; when, in truth and fact, as [the petitioner] well knew, no more than 120 of such tablets had been dispensed to the said Dorothy Williams. Petitioner was acquitted on Count II of the indictment, which charged generally that he maintained a false prescription file concerning the dispensing of demoral. Petitioner was acquitted on Count III of the indictment, charging that he sold morphine sulfate hypodermic tablets to the Government's chief witness, one William Michael Ruggiere, without a prescription. The remaining two Counts of the indictment were dismissed by the Government prior to the commencement of trial.

Petitioner's Motion for New Trial was overruled, and an appeal to the Court of Appeals for the Eighth Circuit was perfected.

The Court of Appeals for the Eighth Circuit affirmed the conviction on April 5, 1965, and by its Order of April 5, 1965, the judgment and sentence of the trial Court was affirmed.

The Government's chief witness, William Michael Ruggiere, testified at the trial that during the period in question, he was taking fifteen to eighteen grains of narcotics a day; and that he purchased morphine sulfate tablets from the petitioner on occasion without a prescription. He testified he